(G.C.P.)J 455 (5,00,000)-11.2001) Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.1368 OF 2004

| Office Notes, Office Memoranda of Coram, appearances, Court's order or directions and Registrar's order. | Court's or Judge's orders |
|---|---|

Ms Kanchan Karangutkar i/b Shri V.M.Thorat for the petitioners.

Shri B.R.Patil, Addl.PP for respondent No.2.

CORAM: R.M.S.KHANDEPARKAR, J

DATED: 15th APRIL, 2005.

P.C.

. Heard. The petitioners challenge the process issued against the petitioners in the Complaint being C.C.No.900/S/1999 by the learned Metropolitan Magistrate, Mumbai. The learned Advocate for the petitioners submitted that the settlement talks are going on, and therefore, the matter may be adjourned. The request for adjournment on the ground of settlement is rejected.

. The matter relates to the complaint filed in the year 1999. The objection to

the issuance of process is based on the ground that the petitioner No.1, who is the accused No.2, is not the Chairman or Director of the accused No.1- Essar Projects Limited, against whom the complaint for bouncing of the cheque has been filed along with the other persons who are incharge and responsible for the conduct of business of the company and its day to day administration. As regards the petitioner No.2, who is the accused No.11, is concerned, it is his case that he was never the Director of the accused No.1 - Essar Projects Limited. Irrespective of the fact that whether the petitioners are Chairmen and/or Directors of the accused No.1 -Essar Projects Limited or not, the fact remains that the complaint, ex facie, discloses that both these persons were incharge and responsible for the conduct of business of the accused No.1-company and its day to day administration. Considering the provisions of Section 141 of the Negotiable Instruments Act, 1881, therefore, no fault can be found with the impugned order issuing process against the petitioners, and hence, the petition is rejected with no order as to costs.

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